



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

July 18, 2006

Greg Shenton
Watermaster, Water District 31
PO Box 33
Dubois, Idaho 83423

Re: Mud Lake Water Users Inc. Pump Diversion from Rays Lake

Dear Greg,

On July 17, 2006 I spoke to you about the Mud Lake Water Users Inc. ("MLWU") diversion pump from Rays Lake located just upstream of the Rays Lake dike in the NWSWSE of Section 25, T7N, R35E. I had received an inquiry regarding the legal status of this pump from a holder of water rights listing Rays Lake as a source of water. It has come to my attention that this MLWU pump is not a recorded point of diversion under any water rights owned by MLWUA or any other water user. Neither Rays Lake nor Camas Creek is listed as a source of water under any MLWUA water rights. I understood from you that the pump diverts water around the dike since water in Rays Lake does not flow to Mud Lake once the head gates in the Rays Lake dike are closed. It is also my understanding that the Rays Lake head gates are closed when the MLWUA ground water wells are pumped into Camas Creek in order to prevent the ground water from flowing into Rays Lake. I further understood from you that Camas Creek currently is not flowing into Rays Lake. I also understood from you that the MLWUA Rays Lake pump was installed only about ten to twelve years ago, and that there is not necessarily a historical practice for diverting the water around the dike beyond the last ten to twelve years.

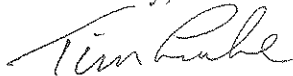
IDWR is concerned that the MLWUA pump is not a recorded diversion on any valid water right. IDWR recognizes that Rays Lake and Camas Creek are tributary to Mud Lake. In the absence of any recorded point of diversion from Rays Lake, water from Rays Lake and Camas Creek should flow naturally to Mud Lake through the outlet gates of the Rays Lake dike. The necessity to close the gates on the dike to check the ground water flow into Camas Creek below the dike does not create authority to install a diversion pump in Rays Lake above the dike.

Via this letter, IDWR directs you to cease further diversion of water from Rays Lake through the MLWU pump described above by noon, July 21, 2006. No further diversion of water should occur at this pump after noon on July 21, 2006 unless specifically authorized by IDWR. The MLWU Rays Lake pump must be recorded as a point of diversion on a valid water right or water rights in order for it to be used in the future. MLWUA may wish to consider filing a water right transfer in order to add the pump as a valid point of diversion under its existing surface water rights. Alternatively, MLWU may also wish to consider filing a late claim in the Snake River Basin Adjudication ("SRBA") to obtain a right for any historical practice of

diverting water from Rays Lake. MLWU should consult with their attorney to consider the most appropriate approach to resolve this matter.

Please contact me directly at 208-287-4959 if you have questions or concerns regarding this direction.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tim Luke".

Tim Luke
Manager, Water Distribution

cc: Mud Lake Water Users Inc.
IDWR Eastern Region
Gary Spackman, IDWR Water Allocations
Candice McHugh, Idaho Attorney Generals Office
Perry Woodard

N:\Water Districts by Basin\Basin 31\WD 31\Correspondence\Shenton-RaysLkPump071806.doc